

BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: March 19, 2003

Division: Management Services

Bulk Item: Yes ☒ No ☐

Department: Administrative Services

AGENDA ITEM WORDING: Approval of consent to subcontract survey of historical buildings in unincorporated Monroe County.

ITEM BACKGROUND: There is a current contract in effect between Monroe County and the Historic Florida Keys Foundation, funded by County and Florida Department of State, Division of Historical Resources.

PREVIOUS RELEVANT BOCC ACTION: Approval to apply at November 2001 meeting; approval of contract with state at August 2002 meeting; approval of contract with Historic Florida Keys Foundation at September 2002 meeting.

CONTRACT/AGREEMENT CHANGES: survey of historical buildings will be subcontracted to GAI Consultants-SE.

STAFF RECOMMENDATION: approval

TOTAL COST: 26,250.00

BUDGETED: Yes ☒ No ☐

COST TO COUNTY: 13,125.00

SOURCE OF FUNDS: 50% grant, 50% gen revenue fund match

REVENUE PRODUCING: Yes ☐ No ☒

AMOUNT PER MONTH _____
YEAR _____

APPROVED BY: COUNTY ATTY ☐ OMB/PURCHASING ☐ RISK MANAGEMENT ☒

DIVISION DIRECTOR APPROVAL: _____

Sheila A. Barker

Sheila A. Barker

DOCUMENTATION: INCLUDED: ☐ TO FOLLOW: ☐ NOT REQUIRED: ☐

DISPOSITION:

AGENDA ITEM #: C.25

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Historic Florida Keys
Foundation

Effective Date: 03/19/03
Expiration Date: 06/30/03

Contract Purpose/Description: Approval to subcontract historic buildings survey in unincorporated Monroe County. Funds provided through Florida Department of State, Division of Historical Resources for implementation of the Monroe County Historic Buildings Survey.

Contract Manager: David P. Owens
(Name)

4482
(Ext.)

OMB/Grants Mgt.
(Department)

for BOCC meeting on 03/19/03

Agenda Deadline: 03/05/03

CONTRACT COSTS

Total Dollar Value of Contract: \$26,250.00 Current Year Portion: \$26,250.00
Budgeted? Yes ☒ No Account Codes: 125-03504-530490-GK0302-XXXXXX
Grant: \$13,125.00
County Match: \$13,125.00

ADDITIONAL COSTS

Estimated Ongoing Costs: \$2857.00 For: Staff support-filing reports, oversight
(Not included in dollar value above) (e.g. Maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed Yes <input type="checkbox"/> No <input type="checkbox"/>	Reviewer	Date Out
Division Director				
Risk Management	3/12/03	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<i>W. G...</i>	3/12/03
O.M.B./Purchasing	3/12/03	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<i>ALD</i>	3/12/03
County Attorney		Yes <input type="checkbox"/> No <input type="checkbox"/>	<i>See attached</i>	

Comments:

Owens-David

From: Hutton-Suzanne
Sent: Monday, February 24, 2003 11:37 AM
To: Owens-David
Subject: HFKF

Jan printed out your e-mail to her & gave it to me.

First, The contract is very similar to the one that was done between County & HFKF, except that the County is not a party to this one, so there is no reason for me to sign off on it. I would suggest that it be spelled out in Paragraph 6(a) who the "Program Director" is.

Second, the Sept. 18, 2002 agreement between County & HFKF requires in paragraph 13 written approval by the County of an assignment or sub-contract. This is a sub-contract so you need an item on BOCC agenda approving same.

HFKF

**CONSENT TO SUBCONTRACT THE SURVEY OF
HISTORIC BUILDINGS IN UNINCORPORATED MONROE COUNTY**

This consent to subcontract is made and entered into this _____ day of March, 2003, between the BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, hereinafter referred to as "Board," and the HISTORIC FLORIDA KEYS FOUNDATION, hereinafter referred to as "FOUNDATION."

WHEREAS, on September 18, 2002, the parties entered into an agreement whereby the FOUNDATION is to provide a survey of historic buildings in unincorporated Monroe County (the original agreement); and

WHEREAS, paragraph 13 of the original agreement prohibits the assignment or subcontracting of any of the FOUNDATION'S duties and obligations under the original agreement without the consent of the Board; and

WHEREAS, the FOUNDATION desires to subcontract the survey of historic buildings in unincorporated Monroe County to GAI Consultants-SE; now, therefore,

IN CONSIDERATION of the mutual promises and covenants set forth below, the parties agree as follows:

1. The Board consents to the FOUNDATION subcontracting the survey of historic buildings in unincorporated Monroe County to GAI Consultants-SE, according to the terms and conditions of the agreement between the FOUNDATION and GAI Consultants-SE. A copy of those agreements is attached to this consent to subcontract agreement as Exhibit A and is hereby made a part of this consent to subcontract agreement. The Board agrees to reimburse the FOUNDATION for the survey of historic buildings in unincorporated Monroe County according to the terms set forth in Exhibit A, subject to the maximum amounts set forth in the original agreement paragraph three and subject to the FOUNDATION furnishing reimbursement documentation satisfactory to the Clerk of the Circuit Court.

2. Except as provided in this consent to subcontract agreement, paragraph one, in all other respects the terms and conditions of the parties' original agreement remain in full force and effect. This consent to subcontract does not release or waive the obligation of the FOUNDATION to see that its duties and responsibilities under the original agreement are satisfactorily performed.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first written above.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairman

HISTORIC FLORIDA KEYS FOUNDATION
(Federal ID No. _____)

By _____
President

By _____
Director

MONROE COUNTY HISTORIC BUILDINGS SURVEY SUBCONTRACT

THIS AGREEMENT is made and entered into this _____ day of _____, 2003, by and between HISTORIC FLORIDA KEYS FOUNDATION, whose address is 510 Greene Street, Key West, FL 33040, hereinafter referred to as "FOUNDATION," and GAI CONSULTANTS-SE, whose address is 618 East South St., Orlando, FL 32801, hereinafter referred to as "CONSULTANT."

WITNESSETH

WHEREAS, the Florida Department of State, Division of Historical Resources has awarded a grant of funds to Monroe County to implement a program that provides a survey of historical buildings in Monroe County; and

WHEREAS, Monroe County has entered into a contract with the FOUNDATION for the provision of this survey of historical buildings in Monroe County; and

WHEREAS, the FOUNDATION is in need of a qualified professional firm to provide said services under this Program; and

WHEREAS, the CONSULTANT has submitted the most favorable proposal to perform this survey; and

WHEREAS, the COUNTY has agreed to disburse the Florida Department of State, Division of Historical Resources grant funds to the FOUNDATION in accordance with the COUNTY'S application for the Florida Department of State, Division of Historical Resources grant funds;

NOW THEREFORE, in consideration of the mutual understandings and agreements set forth herein, the FOUNDATION and the CONSULTANT agree as follows:

1. **TERM** - The term of this Agreement is from March 19, 2003, through June 30, 2003, the date of the signature by the parties notwithstanding, unless earlier terminated as provided herein.

2. **SERVICES** - The CONSULTANT will provide services as outlined in the FOUNDATION'S Agreement with Monroe County, attachments and addenda, attached and made a part hereof.

3. **FUNDS** - The total project budget to be expended by the CONSULTANT in performance of the services set forth in Section 2 of this agreement shall be the total sum of \$26,000.00. The total sum represents federal grant/state sub-grant support in the amount of \$13,000.00 and local matching funds in the amount of \$13,000.00, which amount shall be provided by the COUNTY through the grant matching funds account. All funds shall be distributed and expended in accordance with the terms outlined in the grant agreement.

4. **INCORPORATION BY REFERENCE** - The provisions of those certain documents entitled "Historic Preservation Grant Award Agreement Survey & Planning Grants - Advanced Payment Grant No. S3075, Attachment A, Attachment B, and Addendum" (Attachment A to this contract), "Monroe County Historic Buildings Survey Grant Funds Agreement" (Attachment B to this contract), "Monroe County, Florida Request for Qualifications: "Historic Preservation Services" (Attachment C to this contract), and the "Historical Resources Grants-in-aid Application" (Attachment D to this contract) therefor and all laws, rules and regulations relating thereto are incorporated by reference.

5. IMPLEMENTING AGENCY BOND - The CONSULTANT is an implementing agency under the COUNTY'S Florida Department of State, Division of Historical Resources grant program, and shall be bound by all the provisions of the documents incorporated by reference in Section 4 of this Agreement. Additionally, the CONSULTANT shall be bound by all laws, rules, and regulations relating to Monroe County's performance under the Florida Department of State, Division of Historical Resources grant program.

6. BILLING AND PAYMENT

(a) The CONSULTANT shall render to the FOUNDATION, no more frequently than monthly, an itemized invoice properly dated, describing the services rendered, the cost of the services, and all other information required by the Program Director. The original invoice shall be sent to:

Historic Florida Keys Foundation
510 Greene Street
Key West, FL 33040

(b) Payment shall be made after review and approval by the FOUNDATION within thirty (30) days of receipt of the correct and proper invoice submitted by the CONSULTANT.

7. TERMINATION - This Agreement may be terminated by either party at any time, with or without cause, upon not less than thirty (30) days written notice delivered to the other party. The FOUNDATION shall not be obligated to pay for any services provided by the CONSULTANT after the CONSULTANT has received notice of termination. In the event there are any unused Florida Department of State, Division of Historical Resources grant program funds, the CONSULTANT shall promptly refund those funds to the FOUNDATION or otherwise use such funds as the FOUNDATION directs.

8. ACCESS TO RECORDS - The grantee, the Florida Department of State, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcription. Grantees shall require contractors to maintain all required records for FIVE years after grantees make final payments and all other pending matters are closed.

9. NOTICES - Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, and sent to:

FOR FOUNDATION:
Jack London, Director
Historic Florida Keys Foundation
510 Greene Street
Key West, FL 33040

FOR CONSULTANT:
Jeffrey M. Sievers, P.E.
GAI Consultants - SE
618 East South Street
Orlando, FL 32801

Either of the parties may change, by written notice as provided above, the addresses or persons for receipt of notices.

10. UNAVAILABILITY OF FUNDS - If the FOUNDATION shall learn that funding from Monroe County or the Florida Department of State, Division of Historical Resources cannot be obtained or cannot be continued at a level sufficient to allow for the services specified herein, this Agreement may then be terminated immediately, at the option of the COUNTY, by written notice of termination delivered in person or by mail to the CONSULTANT at its

address specified above. The FOUNDATION shall not be obligated to pay for any services provided by the CONSULTANT after the CONSULTANT has received notice of termination.

11. COMPLIANCE WITH LAWS AND REGULATIONS - In providing all services pursuant to this Agreement, the CONSULTANT shall abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provision of, such services, including those now in effect and hereafter adopted, and particularly Article 1, Section 3 of the Constitution of the State of Florida and Article 1 of the United States Constitution, which provide that no revenue of the state or any political subdivision shall be utilized, directly or indirectly, in aid of any church, sect or religious denomination or in aid of any sectarian institution. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement immediately upon delivery of written notice of termination to the CONSULTANT. If the CONSULTANT receives notice of material breach, it will have thirty days in order to cure the material breach of the contract. If, after thirty (30) days, the breach has not been cured, the contract will automatically be terminated.

The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title I of the Americans with Disabilities Act of 1990 in that: No person in the United States shall on the grounds of race, creed, color, national origin, sex, age, political affiliation, beliefs, or disability be subject to discrimination under any program or activity which the CONSULTANT has agreed to undertake by and through the covenants and provisions set forth in this contract.

When publications, films, or similar materials are developed, directly or indirectly, from a program, project or activity supported by grant funds, any copyright resulting therefrom shall be held by the Florida Department of State, Division of Historical Resources. The author may arrange for copyright of such materials only after approval from the Department. Any copyright arranged for by the author shall include acknowledgment of grant assistance. As a condition of grant assistance, the grantee agrees to, and awards to the Department and, if applicable, to the Federal Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for official purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright.

12. ASSIGNMENTS AND SUBCONTRACTING - Other than noted herein, neither party to this Agreement shall assign this Agreement or any interest under this Agreement, or subcontract any of its obligations under this Agreement, without the written consent of the other. It is understood and agreed that sub-consultant, Marla Dumas, will assist the CONSULTANT with this project.

13. INDEPENDENT CONTRACTOR/EMPLOYEE STATUS - The CONSULTANT is an independent contractor. No statement in this agreement shall be construed so as to find the CONSULTANT, its employees, contractors, servants, volunteers, or agents to be employees of the FOUNDATION. Persons employed by the CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, worker's compensation, unemployment compensation, civil service or other employee rights or privileges granted to the FOUNDATION'S officers and employees either by operation of law or by the FOUNDATION.

14. INDEMNIFICATION - The CONSULTANT agrees to hold harmless, indemnify, and defend the COUNTY, its commissioners, officers, employees, and agents against any and all claims, losses, damages, or lawsuits for damages, arising from, allegedly arising from, or related to the provision of services hereunder by the CONSULTANT.

15. ENTIRE AGREEMENT

(a) It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.

(b) Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof for the purposes herein expressed at Monroe County, Florida, on the day and year first written above.

HISTORIC FLORIDA KEYS FOUNDATION

GAI CONSULTANTS-SE

By: _____

By: _____

Title: _____

Title: _____

**Historic Preservation Grant Award Agreement
Survey & Planning Grants - Advanced Payment
Grant No. S3075**

This AGREEMENT is between the State of Florida, Department of State, Division of Historical Resources, hereinafter referred to as the Department, and the **Monroe County**, a political subdivision of the State of Florida, hereinafter referred to as the Grantee, relative to the **Monroe County Historic Buildings Survey Project**, hereinafter referred to as the Project, and is entered into this 20 day of September, 2002, and shall end on June 30, 2003.

The Department is responsible for the administration of grant-in-aid assistance for historic preservation purposes under the provisions of Section 267.0617, Florida Statutes. The Grantee has applied for grant-in-aid assistance for the Project. The application, incorporated by reference, has been reviewed and approved in accordance with Chapter 1A-35, Florida Administrative Code, which regulates Historic Preservation Grants-in-Aid. Subject to the limitations set forth in this Agreement, grant-in-aid funds in the amount of **thirteen thousand one hundred twenty five dollars (\$13,125.00)** have been reserved for the Project by the Department. The Department and the Grantee agree as follows:

- I. The Project shall include the following authorized project work:
 - A. **Conduct a Historic Architectural Survey in unincorporated Monroe County. Florida Master Site File forms will be completed or updated on all identified sites. A Survey Log Sheet and Final Survey Report will be produced.**
 - B. **A draft of the Survey Report and five sample Master Site File forms, including photos and maps as per Attachment B of the Grant Award Agreement, will be submitted to the Department no later than forty-five days prior to the end of the grant period for review and approval.**
 - C. **Two copies of the Final Survey Report with one Survey Log Sheet and one copy of Florida Master Site File forms with photos and maps, will be submitted to the Department at the end of the grant period as final products.**
- II. The Grantee agrees to administer the Project in accordance with the **GENERAL AND SPECIAL CONDITIONS GOVERNING GRANTS AND THE ADMINISTRATIVE INSTRUCTIONS FOR HISTORIC PRESERVATION PROJECT ACCOUNTABILITY** attached as Attachment "A", and Chapter 1A-35, Florida Administrative Code, and the following specific conditions:
 - A. The Grantee agrees to complete the Project by **June 30, 2003** and submit the Final Products and the Final Progress Report and Final Expenditure Report, as specified in Attachment "A", Part II, subparagraph B.2., within 30 days of completion of project work. No costs incurred prior to the commencement date of this Agreement are eligible for payment from grant funds. No costs incurred after the above project work completion date will be eligible for payment unless specifically authorized by the Department before the cost is incurred.
 - B. The Department shall not assume any liability for the acts, omissions to act or negligence of the Grantee, its agents, servants or employees; nor shall the Grantee exclude liability for its own acts, omissions to act or negligence to the Department. The Grantee hereby agrees to be responsible for any injury or property damage resulting from any activities conducted by the Grantee, its agents, servants or employees.

- C. The Grantee, other than a grantee which is the State or agency or subdivision of the State, agrees to indemnify and hold the Department harmless from and against any and all claims or demands for damages, including attorney fees and court costs, resulting from personal injury, including death or damage to property, arising out of any activities performed under this Agreement, omissions to act or negligence of the Grantee, its agents, servants, or employees and shall investigate all claims at its own expense.
- D. The Grantee shall be solely responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to perform the services set forth in this Agreement, including entering into subcontracts with vendors for services and commodities, provided that such subcontract has been approved in writing by the Department prior to its execution, and provided that it is understood by the Grantee that the Department shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.
- E. The Grantee shall submit complete bid documents, including plans and specifications, to the Department for review and approval prior to the execution of any contract for construction work.
- F. The Grantee agrees that all acts to be performed by it in connection with this Agreement shall be performed in strict conformity with all applicable laws and regulations of the State of Florida.
- G. The Grantee shall coordinate consultation between its professional consultants and appropriate Department staff representatives as necessary to assure mutual understanding of and agreement on the objectives, requirements, and limitations of the Project in relation to the State Historic Preservation Program.
- H. The Department shall unilaterally cancel this Agreement in the event that the Grantee refuses to allow public access to all documents or other materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Grantee in conjunction with this Agreement.
- I. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. The Grantee shall not charge the Department for any travel expense without the Department's written approval. Upon obtaining the Department's written approval, the Grantee shall be authorized to incur travel expenses to be reimbursed in accordance with Section 112.061, Florida Statutes.
- J. The Grantee recognizes that the State of Florida, pursuant to Section 212.08(6), Florida Statutes, is not required to pay taxes on any goods or services which may be provided to it pursuant to this Agreement.
- K. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event that the state funds on which this Agreement is dependent are withdrawn, this Agreement is terminated and the Department has no further liability to the Grantee beyond that already incurred by the termination date. In the event of a state revenue shortfall, the total grant shall be reduced in proportion to the revenue shortfall.
- L. All project work must be in compliance with the Secretary of the Interior's Standards for Identification, and Evaluation.

- M. The Grantee will not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of race, religion, color, handicap, national origin, age, gender, or marital status. The Grantee shall insert a similar provision in all subcontracts for services by this Agreement.
 - N. The Department shall not be liable to pay attorney fees, interest, late charges and service fees, or cost of collection related to the grant.
 - O. These grant funds will not be used for lobbying the Legislature, the Judicial branch or any state agency.
 - P. Each grantee, other than a grantee which is a State agency, shall submit to an audit or submit an attestation statement pursuant to Section 216.349, Florida Statutes.
 - Q. The product of the Project must be the original work of the Grantee or its consultants. If the work of others is used as background information, it shall be appropriately credited to the originator.
- III. The Department agrees to pay the Grantee for 50% of the Grantee's total cash expenditures and donated values, so long as the Grantee's cash expenditures equal or exceed the amount of donated values, up to a maximum payment of **thirteen thousand one hundred twenty five dollars (\$13,125.00)**. If the donated values exceed the amount of cash expenditures, the Department shall only pay the Grantee for 100% of actual cash expenditures up to a maximum payment of **thirteen thousand one hundred twenty five dollars (\$13,125.00)**.

In order for any expenditure to qualify for payment, it must be properly documented, be for work performed during the term of the Agreement, and for a charge which is reasonable in amount and directly related to and necessary for the completion of the authorized project work.

The total amount as prescribed above shall be made to the Grantee in four quarterly installments. The first three may be made at the beginning of each quarter for which they are allotted. Grantees shall submit the four signed Requests for Advanced Payment Forms (No. HR2E560397, effective 3/97), herein incorporated by reference, with this signed Grant Award Agreement to initiate the grant. The Grantee shall submit to the Department a completed "Progress and Expenditure Report" form for every reporting period of the grant period. Progress and Expenditure Reports shall be received by the Department within 30 days of the ending of a reporting period.

Within 30 days of completion of project work, the Grantee shall submit the completed "Final Progress and Expenditure Report" form to the Department. The last grant payment installment shall be payable during the last quarter for which allotted and upon receipt and verification of the Grantee's Final Progress and Expenditure Report and verification of all previously submitted Progress and Expenditure Reports.

When advance payments have been made by the Department, adjustments for overpayments shall be made quarterly and upon receipt of the Final Progress and Expenditure Report, unless otherwise agreed by the parties. In addition, in the event that all project work which is the subject of this Agreement is not fully completed in both a timely and satisfactory manner, the Department reserves the right to demand and receive full reimbursement of all sums which it has paid the Grantee under this Agreement.

Payment for project costs will also be contingent upon all authorized project work being in compliance with the aforementioned Secretary of the Interior's Standards, and the inspection and approval of the grant assisted work by the Department. The Department further agrees to the following conditions:

- A. The Department shall review and approve as to form and content all proposed contracts of the Grantee for the procurement of goods and services relating to the project work and all proposed contract change orders or amendments prior to final execution of said contracts, change orders or amendments, but said review and approval shall not be construed as acceptance by or imposition upon the Department of any financial liability in connection with said contracts.
- B. The Department shall review and approve detailed plans, specifications, and other bid documents for construction work relating to the Project prior to the execution of any contract for such work; review and comment on all preliminary reports and recommendations; and confer with the Grantee and its professional consultants as necessary throughout the course of the Project, to assure compliance with the objectives, requirements and limitations of the State Historic Preservation Program.
- IV. The payment schedule of grant funds shall be subject to the timely filing of required reports and to any special conditions required by the Office of the Comptroller, State of Florida.
- Surplus funds must be temporarily invested and the interest earned on such investments shall be returned to the State. The Grantee shall report interest earnings quarterly, and shall remit the total interest earned at the end of the grant period in the form of a check or money order made payable to the Florida Department of State.
- V. This Agreement is executed and entered into in the State of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Each party shall perform its obligations hereunder in accordance with the terms and conditions of this Agreement.
- VI. If any term or provision of this Agreement is found to be illegal and unenforceable, the remainder of this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.
- VII. No delay or omission to exercise any right, power or remedy accruing to either party upon breach or default by either party under this Agreement, shall impair any such right, power or remedy of either party; nor shall such delay or omission be construed as a waiver of any such breach or default, or any similar breach or default.
- VIII. Each grantee, other than a grantee which is a State agency, agrees that, its officers, agents and employees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee or agent of the State. Each grantee, other than a grantee which is a State agency, is not entitled to accrue any benefits including retirement benefits and any other rights or privileges connected with employment in the State Career Service. The Grantee agrees to take such steps as may be necessary to ensure that each subcontractor of the Grantee will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.
- IX. The Grantee shall not assign, sublicense or otherwise transfer its rights, duties or obligations under this Agreement without prior written consent of the Department which consent shall not be unreasonably withheld. The Agreement transferee must also demonstrate compliance with Chapter 1A-35, Florida Administrative Code. If the Department approves a transfer of the Grantee's obligations, the Grantee remains responsible for all work performed and all expenses incurred in connection with the Agreement. In the event the Legislature transfers the rights, duties and obligations of the Department to another government entity pursuant to Section 20.06, Florida Statutes, or otherwise, the rights, duties and obligations under this Agreement shall also be transferred to the successor government entity as if it were an original party to the Agreement.

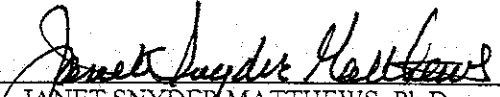
- X. This Agreement shall bind the successors, assigns and legal representatives of the Grantee and of any legal entity that succeeds to the obligation of the Department.
- XI. The following provisions shall apply for the voluntary and involuntary suspension or termination of the grant by either the Department or the Grantee:
- A. Suspension. Suspension is action taken by the Department which temporarily withdraws or limits the Grantee's authority to utilize grant assistance pending corrective action by the Grantee as specified by the Department or pending a decision by the Department to terminate the grant.
1. Notification. When the Grantee has materially failed to comply with the terms and conditions of the grant, the Department may suspend the grant after giving the Grantee reasonable notice (usually 30 calendar days) and an opportunity to show cause why the grant should not be suspended. The notice of the suspension will detail the reasons for the suspension, any corrective action required of the Grantee, and the effective date of the suspension.
 2. Commitments. No commitments of funds incurred by the Grantee during the period of suspension will be allowed under the suspended grant, unless the Department expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the Grantee could not reasonably avoid during the suspension period will be allowed if they result from charges properly incurred by the Grantee before the effective date of the suspension, and not in anticipation of suspension or termination. Third party contributions applicable to the suspension period shall not be allowed in satisfaction of matching share requirements, unless otherwise agreed by the parties.
 3. Adjustments to payments. Appropriate adjustments to the payments submitted after the effective date of suspension under the suspended grant will be made either by withholding the payments or by not allowing the Grantee credit for disbursements made in payment of unauthorized costs incurred during the suspension period.
 4. Suspension period. Suspensions will remain in effect until the Grantee has taken corrective action to the satisfaction of the Department or given written evidence satisfactory to the Department that corrective action will be taken, or until the Department terminates the grant. The grant shall be terminated by the Department if the Grantee fails to respond in writing to a notification of suspension within 30 calendar days of receipt of such notification by the Grantee.
- B. Termination. Termination is the cancellation of grant assistance, in whole or in part, under a grant or project at any time prior to the date of completion.

1. Termination for cause. The Department shall have the authority to cancel this Agreement because of failure of the Grantee to fulfill its obligations under this Agreement or any other past or present grant award agreement with this Division or any other Division within the Department of State. Satisfaction of obligations by the Grantee shall be determined by the Department. The Department shall provide the Grantee a written notice of default letter. The Grantee shall have 15 calendar days to cure the default, unless it is determined by the Department that the default is of a nature that cannot be cured. If the default is not cured by the Grantee within the stated period, the Department shall terminate this Agreement. Notice shall be sufficient if it is delivered to the party personally or mailed to its specified address. In the event of termination of this Agreement, the Grantee will be compensated for any work satisfactorily completed in accordance with this Agreement prior to notification of termination.
2. Termination for convenience. The Department or the Grantee may terminate the grant in whole or in part when both parties agree that the continuation of the Project would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated.
3. Termination by Grantee. The Grantee may unilaterally cancel the grant at any time prior to the first payment on the grant although the Department must be notified in writing prior to cancellation. After the initial payment, the Project may be terminated, modified, or amended by the Grantee only by mutual agreement of the Grantee and the Department. Request for termination prior to completion must fully detail the reasons for the action and the proposed disposition of the uncompleted work.
4. Commitments. When a grant is terminated, the Grantee will not incur new obligations for the terminated portion after the notification of the effective date of termination. The Grantee will cancel as many outstanding obligations as possible. The Department will allow full credit to the Grantee for the Department's share of the noncancelable obligations properly incurred by the Grantee prior to termination. Costs incurred after the effective date of the termination will be disallowed.


- XII. Unless there is a change of address, any notice required by this Agreement shall be delivered to the Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, for the Department, and to, **Monroe County, 1100 Simonton Street, Key West, Florida, 33040**, for the Grantee. Unless the Grantee has notified the Department in writing by return receipt mail of any change of address, all notices shall be deemed delivered if sent to the above address.
- XIII. Neither the State nor any agency or subdivision of the State waives any defense of sovereign immunity, or increases the limits of its liability, upon entering into this contractual relationship.
- XIV. This instrument and the Attachments hereto embody the whole Agreement of the parties. There are no provisions, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the parties. No change or addition to this Agreement and the Attachments hereto shall be effective unless in writing and properly executed by the parties.

All written approvals referenced in this Agreement must be obtained from the parties' grant administrators or their designees. The Department and the Grantee have read this Agreement and the Attachments hereto and have affixed their signatures:

DEPARTMENT OF STATE


JANET SNYDER MATTHEWS, Ph.D.
Director, Division of Historical Resources

MONROE COUNTY

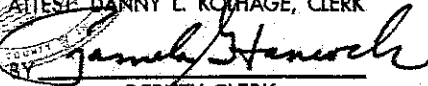



Signature of Authorized Official

CHARLES MCCOY, MAYOR
Typed Name and Title of Authorized Official



ATTEST: DANNY L. KOCHAGE, CLERK


DEPUTY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY 
ROBERT N. WOLFE
DATE 8-6-02

Historic Preservation Grant Award Agreement

Attachment A

**General and Special Conditions Governing Grants
and Administrative Instructions for
Historic Preservation Project Accountability
For Advanced Payment**

**State of Florida
Department of State,
Division of Historical Resources**

June 2000

Introduction and Definitions

In accordance with the provisions of Chapter 267, Florida Statutes, the Division of Historical Resources, Department of State is responsible for the administration of a comprehensive program of historic preservation activities in Florida, and is authorized to participate in and receive funding assistance from the Federal historic preservation program administered by the National Park Service, United States Department of the Interior as authorized by the National Historic Preservation Act of 1966, as amended. Major funding for the overall program is derived from State funds authorized by the Florida Legislature and from the annual apportionment of Federal funds to Florida through the Federal historic preservation program.

The award and administration of grant-in-aid assistance for historic preservation projects to be carried out by public agencies or preservation organizations at the local level is one element of the State's comprehensive historic preservation program. Grants are awarded from funds available in the Historic Preservation Trust Fund established under authority of Section 267.0617, Florida Statutes. These funds may include a part of the Federal funds apportioned annually to the State, as well as funds appropriated for this purpose by the State Legislature and funds contributed from other sources. The cost of administering historic preservation projects grants is included in the overall costs of the comprehensive program, and is supported in part by the annual apportionment of Federal funds.

Continued eligibility for Federal funding assistance requires that the State's comprehensive historic preservation program be administered in accordance with Federal laws, regulations, and conditions, as well as those of the State of Florida. The General and Special Conditions Governing Grants and the Administrative Instructions for Historic Preservation Project Accountability contained herein are intended to inform grantees of and assure grantee compliance with the Federal and State requirements applicable to historic preservation projects grants.

Definitions

"Allowable project costs" are the direct costs in cash expenditures and value of in-kind donations that are necessary to the accomplishment of authorized project work, incurred during the project period, and properly documented in accordance with the Department's Administrative Instructions for Historic Preservation Project Accountability.

"Authorized project work" means those activities described in Section I of the grant award agreement or in a fully executed amendment thereto.

"Department" means the State of Florida, Department of State, Division of Historical Resources.

"Grantee" means the agency, organization, or individual named in the grant award agreement.

"Grant period" means the period of time beginning on the effective date of the grant award agreement and ending on the date specified in the grant award agreement.

"Project funds" refers to all amounts available for or expended in connection with the authorized project work, whether derived from State or Federal grant share or local matching share sources, public or private, and whether provided in cash or in-kind.

"Project period" means the period of time beginning on the effective date of the grant award agreement and ending when the project completion report is approved by the Department or on the date otherwise specified in the grant award agreement or any amendment thereto.

PART I

General and Special Conditions Governing Grants

All expenditures in connection with projects approved for assistance under the historic preservation grant program are subject to the provisions of Chapter 267, Florida Statutes; the National Historic Preservation Act of 1966, as amended; other applicable State and Federal laws, rules and regulations; the general conditions listed below; and special conditions affixed to project grant awards.

Applicability

These conditions are applicable both to the grantee and to any consultants, contractors, or employees to which grant-in-aid funds are paid. Failure by the grantee to comply with the conditions of grant assistance will be considered to be noncompliance.

A. General Conditions

1. **Grantee Publicity Requirements.** In order to insure a wide public awareness of historic preservation in general and local preservation projects, the grantee shall meet the following requirements regarding publicity of his/her project:
 - a. At the outset of the project, a news release identifying the project's specifics including source(s) of grant funds, name of the project, along with its nature and benefits to the community shall be sent by the grantee to local print and electronic media.
 - b. Upon completion of the project, the grantee shall issue another news release to local print and electronic media.
 - c. There shall be an effort on the part of the grantee to encourage publication of one or more feature stories on the grantee's project by a newspaper, magazine or television program of at least local circulation. Satisfactory evidence regarding feature stories shall consist of a copy of any newspaper or magazine articles; or letter(s) from grantees to newspapers, magazines or television stations indicating the grantee has requested such a feature story; or written certification from the grantee to the Department that an effort was made. In any case, if the effort was successful, the grantee shall provide the Department with a copy of any such articles or written statement of when any television story was broadcast.
 - d. During the course of the project, the grantee is encouraged to inform elected officials, including state officials, mayors, and city and county commissions, by letter of the nature and benefits of the project.
 - e. Finally, in the case of rehabilitation or restoration projects, the grantee should also make an effort, where appropriate in the judgment of the grantee, to publicize the project and the source of grant assistance (at any stage of the project) to the community through a dedication or other public ceremony of some nature.
 - f. **Federally Funded Projects:** All news releases and promotional materials relating to the project shall contain acknowledgment of grant assistance, substantially as follows: "This project (or publication) has been financed in part with historic preservation grant assistance provided by the National Park Service, U.S. Department of the Interior, administered through the Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, assisted by the Historic Preservation Advisory Council. However, the contents and opinions do not necessarily reflect the views and opinions of the Department of the Interior or the Florida Department of State, nor does the mention of trade names or commercial products constitute

endorsement or recommendation by the Department of the Interior or the Florida Department of State. This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability, or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to: Office of Equal Opportunity, National Park Service, 1849 C Street, NW, Washington, DC 20240."

- g. **State Funded Projects:** All news releases and promotional materials relating to the project shall contain acknowledgment of grant assistance, substantially as follows: "This project (or publication) has been financed in part with historic preservation grant assistance provided by the Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, assisted by the Historic Preservation Advisory Council. However, the contents and opinions do not necessarily reflect the views and opinions of the Florida Department of State, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Florida Department of State.
2. **Amendments to the Grant Award Agreement.** All amendments to the grant award agreement for the project shall be in writing and fully executed by both parties. Amendments will be prepared by the Department, either at its own initiative or upon approval of the written request of the grantee.
3. **Changes in Scope of Project Work.** The grantee may not, without formal amendment of the grant award agreement, make changes in the scope of the project which would alter the allowable project work or services as stipulated in the grant award agreement or make any changes which might result in a deviation from the intent of the legislation which authorized the award of the grant. In the event of uncertainty, questions should be referred to the Department for final determination.
4. **Extension of Grant Period.** No extension of the grant period will be authorized without formal amendment of the grant award agreement.
5. **Timeliness of Work.** The grantee shall cause work on the project to be commenced within a reasonable time not to exceed ninety (90) days after the effective date of the grant award agreement. The grantee shall prosecute the authorized project work to completion with reasonable diligence and within the project period.
6. **Project Supervision.** The grantee will assure that competent and adequate professional supervision and inspection is provided and ensure that the completed work conforms to the approved standards and specifications.
7. **Conflict of Interest.** The grantee shall comply with the laws of the State of Florida governing conflict of interest and standards of ethical conduct, including Chapter 112, Part III, Florida Statutes. In addition, no grantee official, employee, or consultant who is authorized in his or her official capacity to negotiate, make, accept, approve, or take part in decisions regarding a contract, subcontract, or other agreement in connection with a grant assisted project shall take part in any decision relating to such contract, subcontract or other agreement in which he or she has any financial or other interest, or in which his or her spouse, minor child, or partner, or any organization in which he or she is serving as an officer, director, trustee, partner, or employee of which he or she has or is negotiating any arrangement concerning employment has such interest.

8. **Dual Compensation.** If a grantee staff member or consultant is involved simultaneously in two or more projects supported by State or Federal funds, and compensation on either project is based upon percentage of time spent, he or she may not be compensated for more than 100 percent of his/her time during any part of the period of dual involvement.
9. **Contingent Fees.** No person, agency, or other organization may be employed or retained to solicit or secure a grant or contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee. For breach or violation of this prohibition, the Department shall have the right to annul the grant without liability or, at its discretion, to deduct from the grant or otherwise recover the full amount of such commission, percentage brokerage or contingent fee, or to seek such other remedies as may be legally available.
10. **Use of Individual Consultants.** No project funds shall be used for the payment of fees to individual consultants without the written authorization of the Department. The procurement of individual consultant services must be justified and documented in accordance with the Administrative Instructions for Historic Preservation Project Accountability contained in Part II herein. In no case will consultant fees over and above regular salary be paid to employees of the grantee organization or of professional firms or organizations whose services have been properly procured by the grantee for the project. The grantee will not use any project funds to pay travel expenses of employees of the Florida Department of State or Federal government for lectures, attending program functions, or any other activities in connection with the project.
11. **Civil Rights Compliance.** The grantee will assure that the project is administered in conformance with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended. Title VI of the Civil Rights Act of 1964 states that no person will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance. Section 504 of the Rehabilitation Act of 1973 requires that no qualified disabled individual is solely, by reason of disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. The Age Discrimination Act of 1975 prohibits discrimination on the basis of age under any program or activity receiving Federal financial assistance. Every grantee is required to submit a Civil Rights Assurance of Compliance Form. No grant awards may be made without a Civil Rights Assurance of Compliance Form on file.
12. **Discrimination in Employment Prohibited.** In all hiring or employment in connection with the project, each employer (1) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, age, or national origin. In addition, no qualified person shall, on the basis of disability, be subject to discrimination in employment in the grant assisted project. These requirements apply to, but are not limited to, the following: employment, promotion, demotion or transfer; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and its consultants or contractors will comply with all applicable statutes and Executive Orders on equal employment opportunity and grant awards will be governed by the provisions of all such statutes and Executive Orders, including enforcement provisions.
13. **Religious Institutions.** If the project involves a church or church related organization or property, the grantee will assure that neither the execution of nor the public benefit resulting from the project require involvement or participation in religious services or activities.
14. **Political Activities.** No expenditure of project funds may be made for the use of equipment or premises for political purposes, sponsoring or conduction of candidate's meeting(s).